

ORDINANCE NO. 700

AN ORDINANCE VACATING THE WATER LINE MAINTENANCE EASEMENT BENEFITTING THE TOWN OF HAYDEN RECORDED AT BOOK 715, PAGE 545, IN THE OFFICIAL RECORDS OF THE ROUTT COUNTY CLERK & RECORDER; AND PROVIDING AN EFFECTIVE DATE

RECITALS

WHEREAS, a certain water line maintenance easement benefitting the Town of Hayden was created by an instrument recorded at Book 715, Page 545, in the Official Records of the Routt County Clerk & Recorder (the "Easement"); and

WHEREAS, Kum & Go, L.C. has requested that the Town of Hayden (the "Town") vacate the said Easement; and

WHEREAS, the Hayden Town Council (the "Council") held a public hearing on the request to vacate the said Easement on November 19, 2020; and

WHEREAS, the Council found that the approval of the vacation of the said Easement is not contrary to the applicable provisions of Hayden Development Code; and

WHEREAS, the Council found that it is appropriate to proceed with the vacation of the said Easement as proposed; and

WHEREAS, the Hayden Development Code requires that any ordinance vacating a right-of-way shall authorize the Mayor or other designee to execute a quit claim deed on behalf of the Town, which quit claim deed shall reference any exceptions, easements or reservations of the vacation and such quit claim deed shall be recorded in the office of the Routt County Clerk and Recorder.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HAYDEN, COLORADO, THE FOLLOWING:

**Section 1. Vacation.** The water line maintenance easement benefitting the Town of Hayden created by an instrument recorded at Book 715, Page 545, in the Official Records of the Routt County Clerk & Recorder (the "Easement") is hereby vacated.

**Section 2. Authorized Execution of Quit Claim Deeds.** The Mayor is authorized to execute a quit claim deed on behalf of the Town and the Applicant and such quit claim deed shall be recorded in the office of the Routt County Clerk and Recorder.


**Section 3. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

**Section 4. Effective Date.** This Ordinance, immediately on final passing and adoption, shall be published in accordance with Section 3-3h of the Home Rule Charter and recorded in the Town Book of Ordinances kept for that purpose, authenticated by the signatures of the Mayor and Town Clerk. This Ordinance shall be in full force and effect immediately after its publication in accordance with Section 3-3h of the Hayden Home Rule Charter.

**Section 5. Public Hearing.** A public hearing on this Ordinance will be held on the 3rd day of December, 2020, at the regular meeting of the Hayden Town Council beginning at 7 p.m. at the Hayden Town Hall, 178 West Jefferson Ave, Hayden, Colorado.

INTRODUCED, READ, AND ORDERED PUBLISHED PURSUANT TO SUBSECTION 3-3(d) OF THE HAYDEN HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF HAYDEN, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF HAYDEN, ON THE 19<sup>TH</sup> DAY OF NOVEMBER, 2020.

  
Zachary Wuestewald, Mayor

ATTEST  
  
Sharon Johnson, Town Clerk

Ordinance No. 700

Kum & Go, L.C. Easement Vacation

Lot 10R, Kum & Go Store #1904 Final Plat/Replat

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FINALLY ADOPTED, PASSED, APPROVED, AND ORDERED PUBLISHED PURSUANT TO SUBSECTIONS 3-3 (e) through (h) OF THE HAYDEN HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF HAYDEN, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF HAYDEN, ON THE 3<sup>RD</sup> DAY OF DECEMBER, 2020.

  
Zachary Wuestewald, Mayor

ATTEST

  
Sharon Johnson, Town Clerk



Ordinance No. 700  
Kum & Go, L.C. Easement Vacation  
Lot 10R, Kum & Go Store #1904 Final Plat/Replat  
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EXHIBIT A

[LEGAL DESCRIPTION OF PT WEST JEFFERSON AVENUE]



## Quit Claim Deed

THIS DEED, made this 3<sup>rd</sup> day of December, 2020, between Town of Hayden, a Colorado home rule town, PO Box 190, 178 W Jefferson Avenue, Hayden, CO 81639 ("Grantor"), and KG Store 1904, LLC, an Iowa limited liability company, 1459 Grand Ave, West Des Moines, IA 50309 ("Grantee");

WITNESS, that the Grantor, for and in consideration of ONE DOLLARS (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby remise, release, sell and QUIT CLAIM unto Grantee, its successors and assigns, forever, the Existence Easement and Maintenance Easement as described in that certain Easement Agreement recorded in Book 715 at page 545 in the records of the Routt County Clerk & Recorder, located in the said County of Routt, State of Colorado and further described as


A parcel of land located in the Westerly 80.0' of Lots 6,7,8, and 9, Block 2 of Ephus Donelson's Second Addition to the Town of Hayden, Routt County, Colorado; More particularly described as follows: Beginning at point on the East line of said Westerly 80.0' of lots 6,7,8, and 9, Being 91.90' Northerly from the Southwest Corner of same Westerly 80.0' of lots 6,7,8, and 9; Thence Westerly, parallel with the South line of said Block 2, for a distance of 20.0', thence Northerly, parallel with the West line of the same said Block 2, for a distance of 20.0', Thence Easterly, parallel with the South line of Block 2, for a distance of 20.0' to a point on the East line of said Westerly 80.0' of Lots 6,7,8, and 9, Thence Southerly, along said East line of the Westerly 80.0' of Lots 6,7,8, and 9 for a distance of 20.0' to the Point of Beginning.

IN WITNESS WHEREOF, the Grantor has executed this Quit Claim Deed on the date set forth above.

GRANTOR:

TOWN OF HAYDEN,  
a Colorado home rule town

By:

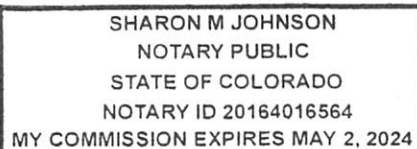
  
Zachary Wuestewald, Mayor

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF ROUTT     )

This record was acknowledged before me this 3<sup>rd</sup> day of December, 2020, by Zachary Wuestewald, Mayor, of the Town of Hayden, a Colorado home rule town.

Witness my hand and official seal.

My commission expires:



  
Notary Public

Prepared by & Return to: Jaclyn A. Scatena, 1459 Grand Avenue, Des Moines, IA 50309; (515) 457-6271

**CORRECTIVE PRIVATE CROSS ACCESS AND DRAINAGE EASEMENT**

**KNOW ALL PERSONS BY THESE PRESENTS** that **TOWN OF HAYDEN, COLORADO** (hereinafter referred to as "Grantor") and **KG STORE 1904, L.L.C.**, an Iowa limited liability company (hereinafter referred to as "Grantee") for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby grants and conveys the easements described in this Private Cross Access Easement (hereinafter referred to as "Easement"). This document is intended to correct the name of Grantee under that certain Private Cross Access and Drainage Easement filed June 11, 2019 under Reception No. 800079.

**WHEREAS**, Grantor owns legal title to the real property legally described as follows (hereinafter referred to as "Easement Area"):

**SEE EXHIBIT "A" ATTACHED HERETO"**

**WHEREAS**, Grantee owns legal title to the real property legally described as follows (hereinafter referred to as "Benefited Parcel"):

Kum & Go Store #1904, Lot 10R

**WHEREAS**, Grantor desires to grant certain easement rights benefiting the Benefited Parcel and burdening the Easement Area.

**NOW, THEREFORE**, Grantor hereby grants and conveys to the owners, customers, invitees, lessees, sublessees, employees, agents, licensees, contractors, vendors and suppliers of the Benefited Parcel, in common with others entitled to use the Easement Area, a non-exclusive easement for the passage of vehicles over and across the Easement Area; and an easement for the installation and maintenance of improvements for the overland flowage and drainage structures for storm water over and across the Easement Area.

This Easement shall be subject to the following terms and conditions:

1. **ERECTION OF STRUCTURES PROHIBITED.** Grantor, its successor or assigns, shall not erect any fence or other structure under, over, on, through, across or within the Easement Area.



2. **PLACEMENT OF OBSTRUCTIONS, PLANTINGS AND MATERIALS PROHIBITED.** Grantor, its successor or assigns, shall not cause or permit any obstruction, planting or material to be placed under, over, on, through, across or within the Easement Area.

3. **CHANGE OF GRADE PROHIBITED.** Grantor, its successor or assigns, shall not substantially change the grade, elevation or contour of any part of the Easement Area.

4. **INSTALLATION AND MAINTENANCE OF IMPROVEMENTS.** Grantee, at its sole expense, agrees that it shall be responsible for the maintenance and repairs of the improvements for the overland flowage and drainage of storm water unless such repairs or maintenance are required by the fault or negligence of Grantor.

5. **TEMPORARY CONSTRUCTION EASEMENT.** Grantor hereby grants to Grantee, its agents, representatives, and contractors, a temporary construction easement within the Easement Area. This temporary construction easement shall be effective until the completion of drainage facilities contemplated herein. Until construction has been completed, Grantors shall not interfere or disturb the construction work within the Easement Area without written approval of the Grantee or its authorized Representatives. Upon Grantee's completion of the construction in the Easement Area, Grantee shall restore any area on Grantors' property disturbed by Grantee's construction work to substantially the condition it was in prior to the commencement of Grantee's construction activities.

5. **RIGHT OF ACCESS.** The owner of the Benefited Parcel shall have the right of access to the Easement Area and have all rights of ingress and egress reasonably necessary for the use and enjoyment of the Easement Area as herein described, including but not limited to, the right to remove, without liability to Grantor, any unauthorized fences, structures, obstruction, planting or material placed or erected under, over, on, through, across or within the Easement Area.

6. **EASEMENT RUNS WITH LAND.** This Easement shall be deemed to run with the land and shall be binding on Grantor and Grantor's successors and assigns and shall benefit the owner of the Benefited Parcel and its successors and assigns.

7. **COVENANTS.** Grantor does hereby covenant that (i) Grantor holds the real property described as the Easement Area by title in fee simple; (ii) Grantor has good and lawful authority to convey this Easement; and (iii) Grantor covenants to warrant and defend the real property described as the Easement Area against the claims of all persons whosoever.

Words and phrases herein including acknowledgement hereof shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

DATED 12-3-20, 2019.

TOWN OF HAYDEN, COLORADO

By: [Signature]  
Title: Mayor

STATE OF Colorado )  
COUNTY OF Routt )ss:

On this 3 day of December, 2020, before me, the undersigned, a Notary Public in and for the State of Colorado, personally appeared Zachary Wuestenwald, to me personally known who, being by me duly sworn, did say that he/she is a Mayor of TOWN OF HAYDEN, COLORADO executing the foregoing instrument; that no seal has been procured by the Town of Hayden; that the instrument was signed on behalf of the Town of Hayden by authority of its members/managers and that Sharon Johnson acknowledged execution of the instrument to be the voluntary act and deed of the limited liability company by it voluntarily executed.

SHARON M JOHNSON  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20164016564  
MY COMMISSION EXPIRES MAY 2, 2024

By: [Signature]  
Notary Public in and for said State



# **EXHIBIT "A"** **PRIVATE CROSS ACCESS EASEMENT**

